

Administrative Policy on Directed Impact Fees for Arterial Streets:

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“The key to a successful community is the concurrent development of the infrastructure with the development of the community – a balance between the need for infrastructure and the need to conserve resources.” (2025 Lincoln/ Lancaster County Comprehensive Plan, Page F 154)

Currently, there is a large gap between the needs for road improvements and the available funds to make those improvements. During the past few years, several committees have attempted to address this funding imbalance through various proposals. Some of these recommendations have been implemented, such using Highway Allocation bonds for the first time and an increasing the wheel tax. However, other measures such as the proposed \$75 million General Obligation bond for roads and trails was defeated by the voters in November 2004.

The City of Lincoln is a growing community and needs to sustain this growth, even during the period of limited funding. New development provides land for economic development opportunities, new retail areas and housing for a growing population. The Comprehensive Plan encourages development in new areas and also “concurrency” of infrastructure with the new private construction.

In a perfect situation, new water lines, parks, waste water lines, schools, streets and trails would all be built at the same time as an area is developing. Currently, however, there is not the funding to do everything concurrent with development. But at the least, the bare minimum of improvements should be done – that is building the water and waste water lines and paving the arterial streets. Already, the community has compromised on paved streets and accepted arterial streets that were paved to rural asphalt standards many years ago. These roads were never intended for urban traffic volumes and do not provide maximum safety and efficiency, but have been accepted given limited funds.

However, many new developments are now proposed next to gravel roads or roads that were never improved at all – i.e. they are not graded or are dirt roads. There is consensus that urban traffic should not utilize gravel or dirt arterial streets for any length of time. Even with limited funding, heavy urban traffic on a gravel road is unacceptable.

It is imperative that in order to provide this growth that benefits the community as a whole, that a way be found to paved these gravel roads to urban standards in the near term. Some have suggested asphalt paving, but paving new asphalt arterial streets in the City is short sighted and in the long run the community will fall further behind in obtaining permanent paving. We should be working to replace the asphalt roads built to rural standards, not creating new ones.

One new tool that was developed to aid in building new arterial streets was the enactment of impact fees in June 2003. The promise of impact fees is that new development would help pay a portion of the costs needed to provide new streets, as well as water, waste water and park/ trail improvements. To date, the City has collected nearly \$6 million in impact fees, including \$3.5 million for arterial street improvements. However, the impact fee ordinance is currently being challenged in court, thus only a portion of these funds have been used to date.

Assuming that impact fees are upheld by the Nebraska Supreme Court, these fees and ones collected in the future could be used to achieve the needed urban paving of gravel or unimproved roads next to new developments, as well as for other needed improvements. It could also assist when a new commercial or industrial project will generate a significant amount of traffic on an asphalt road that needs to be paved to four lanes.

This is not a perfect solution and may lead to some gravel roads that are lightly traveled initially being paved before existing asphalt roads with heavier traffic are improved to 4 lanes. However, doing nothing to these roads is the worst solution, so this proposed alternative is the best choice in the current circumstances. In the future, once the City's road plan is more completely funded, and gravel or unimproved roads have been paved, the City may want to consider returning to improving asphalt roads with heavier traffic prior to more distant gravel roads.

How the Proposal Would Work:

1. **Annexation Agreements:** Through new annexation agreements, the City and developer would agree that (a) a gravel or unimproved road needs to be paved to two lane urban standards or (b) an existing asphalt road needs to be improved to urban standards with four through lanes to handle a significant traffic from a new commercial or industrial development.
2. **Intended Use & Review:** This policy is to be used for projects in conformance with the Comprehensive Plan to be used in Tier I - Priority A areas. It is not intended for water and sanitary sewer improvements. This policy will be updated as needed and will be reviewed by the Mayor annually to determine if it is still warranted.
3. **Urban Arterial Street Standards:** in general, the two lane streets would be improved to urban standards, which for purposes of illustration are as follows (the final design may vary depending upon the circumstances):
 - a. Design for the full four lane plus turn lane roadway
 - b. Right-of-way would be graded to a full urban cross section (future four lane plus turn lane grading)
 - c. Concrete paving of two through lanes with curb and gutter
 - d. Storm sewers
 - e. Sidewalks, street lighting and street trees would be planted on the side with urban paving
 - f. Left and right hand turn lanes

Standards for the four lane street for a new commercial or industrial development would be based on existing city standards or traffic studies.
4. **Fees Directed Only Within the Subdivision:** The City would collect arterial street impact fees within the subdivision included in the Annexation Agreement. Fees will be paid by individual property owners within the subdivision at the time of building permit. Arterial street impact fees from other subdivisions nearby or within the impact fee benefit area would not be “directed” to the developer. The City may need to use these impact fees to build other roads in the area.
5. **Items Eligible for Reimbursement:** The impact fees within the subdivision would be used to reimburse the developer for eligible costs. All work to be reimbursed must be based upon the actual cost of construction as verified by receipts. The impact fee ordinance already provides for reimbursement, but for purposes of illustration, the following costs are eligible for reimbursement:
 - a. Customary design services (if over \$50,000 must go through City RFP process and finalize with Executive Order)
 - b. Grading in right-of-way
 - c. Two through lanes would be paved with curb and gutter
 - d. Storm sewers
 - e. Street lights
 - f. Permanent turn lanes at eligible intersections

6. **Right-of-way & Easements:** Impact fees can not be used for right-of-way acquisition or easements. In general, the full right-of-way on the side opposite the proposed subdivision may not be needed if the two initial lanes are built on the side nearest the proposed subdivision. If the developer can not obtain any needed right-of-way or easements, the City may assist in the acquisition process.
7. **Items Not Eligible for Reimbursement:** The impact fee ordinance does not permit reimbursement for dedication of right-of-way, easements, sidewalks, street trees, or any temporary improvements.
8. **Need for Construction Bidding Process:** To be reimbursed, the improvement must be done by the City's competitive bidding process and finalized through the Executive Order process.
9. **Time Frame for Reimbursement:** The developer will be reimbursed on a quarterly basis. The proposed tracking and reimbursement will require additional administrative staff time and costs.
10. **Reimbursement Without Interest:** Only actual costs will be reimbursed, the developer will not be reimbursed based on their costs plus interest. The developer is accelerating these road improvements ahead of other more needed roads for the benefit of their subdivision. Paying interest is inappropriate and will only decrease funds available for street construction.
11. **Developer Costs Over Fees Collected Within Subdivision:** If the cost of the road paving is more than the total of all the arterial street impact fees to be paid within the subdivision, then the annexation agreement should detail how the remaining cost will be reimbursed. Due to the current financial situation, reimbursement of any remaining amount might be delayed by years, a decade or more. This additional reimbursement will be done only with impact fees.
12. **Process if Impact Fees are Invalid:** If the impact fee ordinance is invalidated by the courts or otherwise ceases to be collected by the City, the developer's cost of paving to be reimbursed by impact fees in their subdivision, will instead be the developer's contribution. This contribution is based on the impact of their development. If the cost of paving was less than the amount of impact fees to be paid in their subdivision, the difference shall be funded by the developer and will require an escrow or security agreement to secure the difference.

Examples of Directed Impact Fee Process:

Example 1: Subdivision with 500 lots pays \$960,000 in arterial street impact fees. The developer paves a $\frac{1}{2}$ mile of the adjacent gravel road to two lanes at a cost of \$500,000. As impact fees are paid, the developer is reimbursed up to their actual cost of \$500,000. The remaining impact fees of \$460,000 are used on other needed arterial street improvements in the benefit area.

Example 2: Subdivision with 500 lots pays \$960,000 in arterial street impact fees. The developer paves a one mile of the adjacent gravel road to two lanes at a cost of \$1,500,000. As impact fees are paid, the developer is paid the estimated \$960,000 from impact fees in the development. The remaining \$540,000 the City could be repaid with impact fees to the developer at some point in the future.